

REMARKS

Applicant amends claim 1 to contain the limitation of claim 7, thereby rendering **moot** the rejection under 35 U.S.C. § 102(b). That is, the amended claim 1 is now equal to the original claim 7 (7/1).

As a result, all of the pending dependent claims are either directly or indirectly dependent on the amended main claim 1 (original claim 7/1).

Applicant respectfully traverses the rejection under 35 U.S.C. § 103(a) based on unpatentability over Allen '553 in view of Windheuser '515, as applied to the amended claim 1 (7/1) and its dependent claims.

Applicant respectfully submits that the Examiner improperly relies on Allen as the primary reference in the rejection based on obviousness.

The speculum disclosed in Allen is not adapted or intended to be used as a “guide insertion device... for the insertion of a guide into a check valve”. Indeed, the Allen speculum is intended to be inserted in the rectum to examine every part of it (see the third paragraph of the first column). There is no relationship between a rectal speculum and the claimed “guide insertion device”.

More specifically, a person skilled in the art working on a guide insertion device would have no motivation to consider a rectal speculum and to modify the dimension of the rectal speculum for obtaining the claimed invention as defined in amended claim 1.

Windheuser does not teach, or even suggest, this deficiency in Allen’s disclosure.

That is, even if Allen were modified as proposed by the Examiner (in the first paragraph on page 4 of the Office Action), there would not be produced the subject matter of the amended

claim 1 (original claim 7/1) or subject matter which would have rendered this claim obvious. In other words, the Allen/Windheuser combination does not predict, teach or even suggest **all of the limitations** of the amended claim 1 and of its dependent claims.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the rejections under 35 U.S.C. § 102(b) and 103(a) and to find the application to be in condition for allowance with claims 1-6, 8, 9 and 11-14; however, if for any reason the Examiner feels that the application is not now in condition for allowance, he is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

Applicant files concurrently herewith a Petition (with fee) for Extension of Time of three months, thereby extending the time for response to October 3, 2009.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,

/John H. Mion/
John H. Mion
Registration No. 18,879

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: October 2, 2009